

**Department of Community Planning and Economic Development - Planning Division**  
Conditional Use Permit and Variance  
BZZ-5406

**Date:** December 12, 2011

**Applicant:** Isidro Perez

**Address of Property:** 2728-50 Nicollet Avenue and 2741 Blaisdell Avenue

**Project Name:** Marissa's Inc. Maiz Tortilla Production and Processing

**Contact Person and Phone:** Isidro Perez, (612) 437-3938

**Planning Staff and Phone:** Shanna Sether (612) 673-2307

**Date Application Deemed Complete:** October 31, 2011

**End of 60 Day Decision Period:** December 30, 2011

**Ward: 6 Neighborhood Organization:** Whittier, Whittier Alliance

**Existing Zoning:** C2 Neighborhood Corridor Commercial District; PO Pedestrian Oriented Overlay District

**Zoning Plate Number:** 25

**Legal Descriptions:** Not applicable

**Existing Use:** Shopping Center

**Concurrent Review:**

- Conditional use permit to allow for the expansion of an existing limited production and processing use to allow for tortilla manufacturing.
- Variance to increase the maximum floor area of a limited production and processing use from 1,200 square feet to approximately 4,000 square feet.

**Applicable zoning code provisions:** Chapter 525, Article VII Conditional Use Permits, Chapter 525.520(3) "to vary the gross floor area, floor area ratio and seating requirements of a structure or use" and Chapter 548 Commercial Districts

**Background:** The subject property is approximately 62,041 square feet and consists of two structures and three parking areas. The use of the subject property is an existing shopping center. Recent land use approvals were granted by the Minneapolis City Planning Commission in 2009 and 2010 to allow for a reception meeting hall and the extension of their hours open to the public. In addition, the following land use applications were reviewed and approved by the Minneapolis City Planning Commission and City Council in 2004:

## CPED Planning Division Report

BZZ-5406

- **Zoning Amendment**-to add the TP Overlay to the R6 zoned parcel located at 2741 Blaisdell Ave S.
- **Conditional Use Permit**-to allow a parking lot in the TP Overlay District at 2741 Blaisdell Ave S.
- **Site Plan Review**-for an existing shopping center at 2728-2750 Nicollet Avenue South and an off-site parking lot located at 2741 Blaisdell Ave S.
- **Variance**-from the requirement that a parking lot in the TP Overlay District shall have a side lot line that abuts the zoning district served by the parking lot to allow a parking lot at 2741 Blaisdell Ave S.
- **Variance**-to reduce the required front yard setback along Blaisdell Ave S from 24 feet to 5 feet for a parking lot at 2741 Blaisdell Ave S.
- **Variance**-to reduce the required south side yard setback from 5 feet to 0 feet for a parking lot at 2741 Blaisdell Ave S.
- **Variance**-to reduce the required rear yard setback from 5 feet to 0 feet for a parking lot at 2741 Blaisdell Ave S.

The reception meeting hall, El Campestre was intended to move from the north building to the south Building in 2010. The reception meeting hall never completed the move and is no longer a tenant at the property. The applicant is now proposing to use the vacant tenant space to increase the on-site tortilla manufacturing use. The proposed use is defined as *limited production and processing* in the zoning code. The existing on-site tortilla manufacturing occupies approximately 1,065 square feet. The applicant is proposing to increase the manufacturing area by 2,935 square feet, totaling 4,000 square feet of gross floor area. Limited production and processing is a conditional use in the C2 Neighborhood Corridor Commercial District. Therefore, the applicant is requesting a conditional use permit to expand the limited production and processing use in the building.

The maximum floor area devoted to limited production and processing uses in the C2 District is limited to 1,200 square feet. The applicant is proposing to use 4,000 square feet of the existing shopping center for the proposed use. Therefore, the applicant is requesting a variance to increase the maximum floor area of a limited production and processing use from 1,200 square feet to approximately 4,000 square feet.

Staff has received a letter of support from the Whittier Alliance and a copy of the letter is attached to the staff report. Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

**CONDITIONAL USE PERMIT:** to allow for the expansion of an existing limited production and processing use to allow for tortilla manufacturing.

**Findings as required by the Minneapolis Zoning Code for the conditional use permit:** The Community Planning and Economic Development Planning Division has analyzed the application and from the findings below concludes that the establishment, maintenance, or operation of the proposed conditional use:

## CPED Planning Division Report

BZZ-5406

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

This site is zoned C2 Neighborhood Corridor Commercial District and is on a commercial corridor. The buildings are existing retail structures and the site is in compliance with the previously approved site plan. The applicant is proposing to increase the production area for tortilla manufacturing. Some of the tortillas are sold on-site at Marissa's Market and others are shipped off to other locations. According to the applicant, the frequency and timing of deliveries and pick-ups will not change from what is currently occurring on the site. The increase in production area should have little impact on the surrounding area. In addition, the use will not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The use of the site as a tortilla manufacturer in an existing shopping center should not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding uses. This site is zoned C2 Neighborhood Corridor Commercial District and is on a commercial corridor. The applicant is proposing to increase the production area for tortilla manufacturing. Some of the tortillas are sold on-site at Marissa's Market and others are shipped off to other locations. According to the applicant, the frequency and timing of deliveries and pick-ups will not change from what is currently occurring on the site. The increase in production area should have little impact on the surrounding area.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The site is served by existing infrastructure. The Public Works Department has reviewed the project for appropriate drainage and stormwater management in or over the public right of way. The site is in compliance with the previously approved site plan.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The required parking for the uses in the building, under typical circumstances, would be 77 spaces. The site is in the Pedestrian Oriented (PO) Overlay District, which allows 75 percent of the parking requirement for the commercial uses specified by Chapter 541 of the zoning code to be provided. This reduces the required parking to 56 spaces. The site has grandfather rights for 12 parking spaces. There are a total of 71 vehicle parking spaces and 26 bicycle spaces (equivalent to 9 vehicle spaces) provided on the site. There are also nonconforming rights for an additional 12 spaces. The site is in compliance with the required off-street parking for vehicles and bicycles. The loading presently occurs off-street in the existing south parking lot before business hours and will continue. The applicant has indicated that delivery traffic will remain the same as it is today and will not add traffic congestion.

**5. Is consistent with the applicable policies of the comprehensive plan.**

*The Minneapolis Plan for Sustainable Growth* designates this part of Nicollet Avenue as a commercial corridor. The plan states the following about uses on commercial corridors: "The corridors support all types of commercial uses, with some light industrial and high density

## CPED Planning Division Report

BZZ-5406

residential uses as well. While the character of these streets is commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate. Commercial uses on these streets will be supported insofar as they do not create excessive negative impacts relative to the location and its surroundings.

Staff believes that the use is consistent with the following policy of the comprehensive plan:

**Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users.**

### **Implementation Steps:**

**1.4.1** Support a variety of commercial districts and corridors of varying size, Intensity of development, mix of uses, and market served.

**1.4.2** Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.

**1.4.3** Continue to implement land use controls applicable to all uses and structures located in commercial districts and corridors, including but not limited to maximum occupancy standards, hours open to the public, truck parking, provisions for increasing the maximum height of structures, lot dimension requirements, density bonuses, yard requirements, and enclosed building requirements.

**1.4.4** Continue to encourage principles of traditional urban design including site layout that screens off-street parking and loading, buildings that reinforce the street wall, principal entrances that face the public sidewalks, and windows that provide “eyes on the street”.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located, with the approval of this conditional use permit.**

In addition to the conditional use permit, a variance has also been requested to increase the gross floor area of the limited production and processing space from 1,200 square feet to 4,000 square feet and the existing use is subject to the following Specific Development Standards, addressed in Chapter 536:

*Shopping center.*

- (1) Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.
- (2) Uses which require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this zoning ordinance.
- (3) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

**CPED Planning Division Report**  
BZZ-5406

The building and intended use shall comply with all of the development standards.

**VARIANCE** – to increase the gross floor area of a limited production and processing use from 1,200 square feet to 4,000 square feet.

**Findings Required by the Minneapolis Zoning Code:**

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Practical difficulties exist in complying with the ordinance due to circumstances unique to the parcel of land that were not created by the applicant. Limited production and processing in a commercial district is limited to 1,200 square feet in area; however, other production, processing and storage uses shall be limited to 4,000 square feet in area. The majority of the floor area is devoted to tortilla processing equipment, which has led to the request to increase the maximum floor area from 1,200 to 4,000 square feet. The applicant has stated that the expansion of the proposed use will add eight new employees. The expanded tortilla manufacturing use will be maintained within the existing building and the variance is needed to allow full use of the building, resulting in practical difficulties.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is proposing to use 4,000 square feet of an existing 24,500 square foot shopping center for limited production and processing. Specifically, the limited production and processing would consist of tortilla manufacturing. Limited production and processing is a conditional use in all commercial districts, provided the gross floor area of the production and processing component does exceed 1,200 square feet. In addition to the limitation on 1,200 square feet of floor area, limited production and processing in commercial districts must also include a retail or office component that is a minimum of 15% of the floor area of the use. Marissa's Market is one of the retail components which tortillas are sold; their floor area is approximately 13,500 square feet or 55% of the total floor area. The applicant is requesting a variance to the gross floor area limitation, proposing a production and processing space with a gross floor area of 4,000 square feet, which is a reasonable use of the property.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Section 543.30 of the zoning code describes limited production and processing uses as those that include activities that are consistent and compatible with retail sales and services. These uses produce minimal off-site impacts due to their limited nature and scale. The activities related to the proposed tortilla manufacturing, though larger than what is allowed under the zoning code, would be conducted completely within the building. Therefore, no off-site impacts are expected and the use is not expected to be injurious to the use or enjoyment of other property in the area.

## CPED Planning Division Report

BZZ-5406

Granting of the variance will allow the proposed use to fully activate the first floor of the building. The granting of the variance is not expected to be detrimental to the public welfare or endanger the public safety.

### **RECOMMENDATIONS:**

#### **Recommendation of the Community Planning and Economic Development Department - Planning Division for the conditional use permit:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the conditional use permit to allow for the expansion of an existing limited production and processing use to allow for tortilla manufacturing located at 2728-50 Nicollet Avenue and 2741 Blaisdell Avenue in the C2 Neighborhood Corridor Commercial District and PO Pedestrian Oriented Overlay District, subject to the following conditions:

- 1) The Community Planning and Economic Development - Planning Division shall review and approve the final plans prior to permitting.
- 2) The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

#### **Recommendation of the Community Planning and Economic Development Department - Planning Division for the variance:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to increase the gross floor area of a limited production and processing use from 1,200 square feet to 4,000 square feet for the property located at 2728-50 Nicollet Avenue and 2741 Blaisdell Avenue in the C2 Neighborhood Corridor Commercial District and PO Pedestrian Oriented Overlay District, subject to the following condition:

- 1) The Community Planning and Economic Development - Planning Division shall review and approve the final plans prior to permitting.

### **Attachments:**

1. Statements from applicant and findings
2. Copy of a letter to Whittier Alliance and CM Lilligren
3. Copy of letter from Whittier Alliance
4. Zoning map
5. Site plans and floor plans
6. Photos